

### **REMARKS**

In response to the above-identified Office Action, Applicant amends the Application and seeks reconsideration in view of the following remarks. In this Response, Applicant amends claims 1, 6, 11, 12, and 18-23. Applicant does not cancel or add any new claims. Accordingly, claims 1-23 remain pending in the Application.

#### **I. Claim Objections**

The Examiner objects to claim 12 asserting “claim 12 does not recite its dependence on claim 11” (Paper No./Mail Date 20061206, page 2). Applicant amends claim 12 to depend from claim 11. Accordingly, Applicant respectfully requests withdrawal of the objection to claim 12.

#### **II. Claims Rejected Under 35 U.S.C. § 101**

Claims 1-5 and 18-23 stand rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Applicant traverses the rejection, at least in view of the amendments to claims and 18.

Applicant has amended the preamble of claim 1 to recite, “a data-empowered test program architecture stored on a computer readable storage medium, comprising...” (emphasis added). Applicant submits that claim 1 (and dependent claims 2-5) is directed to statutory subject matter under 35 U.S.C. § 101. Accordingly, Applicant respectfully request withdrawal of the rejection of independent claim 1 and its associated dependent claims (i.e., claims 2-5).

With reference to independent claim 18, Applicant has amended claim 18 to recite executable instructions as permitted by 35 U.S.C. § 101. Therefore, Applicant submits that claim 18 (and dependent claims 19-23) is directed to statutory subject matter under 35 U.S.C. § 101. Accordingly, Applicant respectfully request withdrawal of the rejection of independent claim 18 and its associated dependent claims (i.e., claims 19-23).

### III. Claims Rejected Under 35 U.S.C. § 102

Claims 1-23 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,146,572 B2 issued to Richardson (“*Richardson*”). Applicants respectfully traverse the rejection, at least in view of the amendments to independent claims 1, 6, 11, and 18.

To anticipate a claim, the cited reference must disclose each and every limitation of the rejected claim (*see* MPEP § 2131). Among other limitations, claim 1 defines a data-empowered test program architecture stored on a computer readable storage medium, comprising:

at least one control file defining a test sequence and instructions for executing the test sequence;  
a test executive software module configured to determine which test sequence to use based on the at least one control file;  
a test framework software module configured to receive the test sequence from the test executive software module, and determine how to perform the test sequence and perform the test sequence based on the instructions in the at least one control file; (Emphasis added).

Applicant submits that *Richardson* fails to disclose at least these limitations of claim 1.

*Richardson* discloses “a system and method for configuring database result logging for a test executive sequence using a graphical user interface (GUI)” (Col. 1, lines 10-12, emphasis added, parenthetical in original). Specifically, *Richardson* provides a computer system that executes:

a test executive sequence under control of test executive software, wherein the test executive sequence is operable to test a unit under test (UUT).... In testing the UUT, various results of the execution of the test executive sequence may be collected by the test executive software....The test executive software may be operable to receive user input to a graphical user interface (GUI) to specify desired database result logging criteria. The test executive software may then log at least a portion of the execution results for the test executive sequence to a database, according to the specified result logging criteria. (*Richardson*, Col. 2, lines 41-65, emphasis added).

Therefore, Applicant submits that *Richardson* discloses a system and method for taking results generated from running a test sequence and storing the results in a database.

In contrast, claim 1 defines a data-empowered test program architecture that uses data in the control file to determine which test to use (via a test executive software module), determine how to perform the test sequence (via a test framework software module) based on the instructions in the control file, and actually perform the test sequence (via a test framework software module) based on the instructions in the control file. That is, Applicant's architecture performs the test sequence based on the test sequence and instructions stored in the control, whereas *Richardson* stores the results of the test sequence in a database. Stated differently, Applicant's claim 1 defines an architecture that stores the "front-end" operations (i.e., the test sequence and instructions for performing the test sequence) of a test sequence, whereas the system and method in *Richardson* stores the "back-end" operations (i.e., the results) of a test sequence. Therefore, *Richardson* fails to disclose each and every limitation of claim 1. Accordingly, Applicant respectfully request withdrawal of the rejection of claim 1.

Claims 2-5 depend from claim 1 and include all of the limitations thereof. Therefore, Applicant submits that claims 2-5 are not anticipated by *Richardson* at least for the same reasons as claim 1, in addition to their own respective features. Accordingly, Applicant respectfully request withdrawal of the rejection of claims 2-5.

Applicant submits that independent claims 6, 11, and 18 each recite limitations similar to claim 1 discussed above. Therefore, Applicant submits that claims 6, 11, and 18 are not anticipated by *Richardson* at least for the same reasons as claim 1, in addition to their own respective features. Accordingly, Applicant respectfully request withdrawal of the rejection of independent claims 6, 11, and 18.

Claims 7-10, 12-17, and 19-23 depend from claims 6, 11, and 18, respectively, and include all of the limitations thereof. Therefore, Applicant submits that claims 7-10, 12-17, and 19-23 are not anticipated by *Richardson* at least for the same reasons as their respective independent claims, in addition to their own respective features. Accordingly, Applicant respectfully request withdrawal of the rejection of claims 7-10, 12-17, and 19-23.

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**CONCLUSION**

In view of the foregoing, it is believed that all claims now pending are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (480) 385-5060 or jgraff@ifllaw.com.

If necessary, the Commissioner is hereby authorized to charge payment or credit any overpayment to Deposit Account No. 50-2091 for any fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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